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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 PHAY ANNOUSAYA,

No. CIV S-05-0301-GEB-CMK

12 Plaintiff,

13 vs.

ORDER

14 JO ANNE B. BARNHART,
15 Commissioner of Social Security,

16 Defendant.
17 _____/

18 Plaintiff, who is proceeding with retained counsel, brings this action for judicial
19 review of a final decision of the Commissioner of Social Security pursuant to 42 U.S.C. §
20 405(g).


21 On October 18, 2005, the court issued an order directing plaintiff to show cause
22 regarding his failure to submit appropriate documents to the U.S. Marshal. Plaintiff failed to
23 respond and, on December 12, 2005, the court issued findings and recommendations that this
24 action be dismissed for lack of prosecution and failure to comply with court rules and orders.
25 See Local Rule 11-110. Plaintiff has responded to the findings and recommendations with a
26 motion to vacate the court's order to show cause based on excusable neglect (Doc. 12). Plaintiff

1 also seeks additional time to notify the court regarding submission of documents. Good cause
2 appearing therefor, plaintiff's motion will be granted and the order to show cause will be
3 discharged. The findings and recommendations will be vacated. Plaintiff will also be granted
4 additional time to file a notice with the court that he has submitted the required documents to the
5 U.S. Marshal for service of this action.

6 Accordingly, IT IS HEREBY ORDERED that;

- 7 1. Plaintiff's motion to vacate (Doc. 12) is granted;
- 8 2. The court's October 18, 2005, order to show cause are discharged;
- 9 3. The court's December 12, 2005, findings and recommendations are
10 vacated; and
- 11 4. Within ten days from the date of service of this order, plaintiff shall file a
12 notice that the appropriate documents have been submitted to the U.S. Marshal.

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14 DATED: February 22, 2006.

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17 **CRAIG M. KELLISON**
18 UNITED STATES MAGISTRATE JUDGE
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